



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

Athena R.

Reply To
Attn Of: OCE-133

APR 7 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph Kyle, Chief Operating Officer
Atka Pride Seafoods, Inc.
234 Gold Street
Juneau, Alaska 99801

Re: Notice of Intent to File Complaint for Clean Water Act Violations;
Opportunity to Confer Prior to Filing
Atka Pride Seafoods, Inc.

Dear Mr. Kyle:

The purpose of this letter is to inform you that the U.S. Environmental Protection Agency (EPA) intends to file an administrative complaint against Atka Pride Seafoods, Inc. (APS) for violations of the Clean Water Act (CWA) for discharging without a National Pollution Discharge Elimination System (NPDES) permit, 33 U.S.C. § 1301. By this letter, we wish to provide you with the opportunity to discuss these matters with EPA prior to the filing of the complaint.

APS is in violation of the CWA for discharging without an NPDES permit from 1998 to present. APS was required to submit a Notice of Intent (NOI) prior to August 4, 2000, in order to be authorized to discharge seafood processing waste into U.S. waters by the NPDES permit, Seafood Processors in Alaska, AK-G52-0000. Since APS failed to submit an NOI, APS did not have authority to discharge seafood processing wastes into U.S. waters.

Section 309 of the CWA, 33 U.S.C. § 1319(g), authorizes EPA to assess civil administrative penalties for violations of the CWA up to \$11,000 per day of violation, or to bring a civil action in district court seeking penalties up to \$32,500 per day for each violation. Any complaint that is filed will seek a penalty consistent with EPA's guidance entitled, "Interim Clean Water Act Settlement Penalty Policy," dated March 1, 1995, and "Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule," dated October 1, 2004.

In general, EPA favors pre-filing discussions as they help ensure that we have all relevant information, and can lead to resolution of enforcement concerns outside of litigation. If we are able to reach a settlement, no complaint would be filed; instead, we would resolve the case with a consent agreement and final order. If we do not settle within 90 days of initiating negotiations,

EPA will file a complaint, which then will be assigned to an administrative law judge, or refer this matter to the Department of Justice.

If you wish to schedule a meeting, or if you have any questions about this letter, please contact Athena Ralstin within 20 days of receipt of this letter at (206) 553-6318. Legal questions may be directed to Cara Steiner-Riley, Assistant Regional Counsel, at (206) 553-1142.

Sincerely,



Kimberly A. Ogle, Manager
NPDES Compliance Unit

cc: Katy McKerney, ADEC - Juneau
Perry Hendricks, Plant Manager - Kenai